



Appeal Decision

Site visit made on 23 November 2020

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/B1930/W/20/3254484

**Land rear of Cherry Trees Restaurant, 261 Lower Luton Road,
Wheathampstead, Hertfordshire AL4 8HW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by KFH Property Ltd against the decision of St Albans City & District Council.
 - The application Ref 5/2020/0478, dated 24 February 2020, was refused by notice dated 19 March 2020.
 - The development proposed is described as "application for permission in principle to provide 5 self-build/custom-build plots".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal proposal seeks Permission in Principle. This consent route has two stages, with the first establishing whether a site is suitable in principle for the development proposed and the second assessing the detailed development proposals. The proposal is at the first stage, and therefore this appeal considers the principle of development, limited to location, land use and amount of development.
3. Applications for Permission in Principle relating to residential development can seek consent for a maximum and minimum number of dwellings. In this instance permission has been sought for 5 dwellings. The appeal has been determined on this basis.
4. The Council's emerging Local Plan has been withdrawn from examination. Its policies therefore attract no weight in the determination of this appeal.

Main Issues

5. As the appeal site is located in the Green Belt, the main issues are:
 - Whether the development proposed would constitute inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies; and,
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

6. The appeal site lies to the rear of a restaurant. Part of the site is in use as part of the restaurant car park, while most of the site was a play area and garden associated with an earlier public house use.
7. Paragraph 145(e) of the National Planning Policy Framework (the Framework) states that limited infilling in villages is not inappropriate development in the Green Belt. However, while infill development need not necessarily fill a gap in a frontage, as a matter of planning judgment I consider that an infill site is one that is between existing development. The appeal site is not as it lies on the edge of the village and is functionally separated from the built-up area of the village by Cherry Tree Lane and London Road, with open land along two sides of the site. The appeal proposal would therefore not accord with the criteria of Paragraph 145(e).
8. Paragraph 145(f) of the Framework allows for limited affordable housing for local community needs under policies set out in the development plan. The development plan is the St Albans Local Plan 1994 (the LP) and no such policies have been identified by either of the main parties. The development proposed cannot therefore accord with this exception. The contribution of the development to affordable housing is addressed further below.
9. The area of the site used for the garden and play area had play equipment erected in it as well as animal pens, with outbuildings located next to the edge of the car park. The children's castle has largely been removed from site, with little evidence remaining of its existence. The buried tyres and swing set are lightweight structures, and the pond base is set into the ground and is not visible above ground level. The remnants of the animal pens and the outbuildings are in poor condition and are low level structures.
10. Even if the site can be considered previously developed land the appeal proposal would have a substantially greater impact on the openness of the Green Belt than the existing development. The existing boundary planting is intermittent and allows views into and through the site from the neighbouring field and from Cherry Tree Lane. There would therefore be substantial harm to the openness of the Green Belt through the introduction of five houses and any associated development such as boundary treatments to the individual plots. The development proposed would consequently fail to comply with the criteria of paragraph 145(g) of the Framework.
11. The proposal would therefore be inappropriate development in the Green Belt. It would conflict with the requirements of the Framework and of Policy 1 of the LP. That policy states that, except in very special circumstances, permission will not be given for development other than for certain specified purposes, which do not include housing.

Other considerations

12. The Council cannot demonstrate a five year supply of housing land. In addition, Policy 1 of the LP provides a much shorter list of developments considered not inappropriate development in the Green Belt than are found in the Framework. This policy is therefore not fully consistent with the Framework. However, the appeal proposal would be inappropriate development in the Green Belt. The presumption in favour of sustainable development does not therefore apply in

this instance because the application of policies in the Framework provide a clear reason for refusing the development proposed.

13. The appellants have identified considerations that they contend weigh in favour of the appeal proposal. The contribution of 5 new houses would support the Government's objective of significantly boosting the supply of homes and help to address the shortfall in the Council's housing land supply. The site is available for development in the short term. The houses would be self-build, for which there is national support, and the Council has not provided sufficient permissions for self-build plots to meet demand. The development would preserve part of the wider site either for biodiversity purposes or for public open space and would contribute towards upgrading the route from Wheathampstead to Harpenden via Leasey Bridge. Heads of terms for a Section 106 agreement have been provided to show that the cost of the houses would be preserved below market rate, along with securing the retention of the open space and the financial contribution towards the Primary Access Route. In addition, there would be economic benefits from the construction of the homes and their ongoing occupation.
14. The appellants have also suggested that there would be benefits from the site being close to a new secondary school and therefore a sustainable location for housing, and from the restoration of derelict land. However, the presence of a nearby school does not necessarily mean that a location is sustainable. I also do not consider that the site is derelict in the sense used in the Framework as this specifically relates to the recycling of urban land, which the appeal site is not. These considerations therefore attract neutral weight in the determination of this appeal.
15. The identified benefits must be weighed against the substantial weight that must be given to any harm to the Green Belt. The development proposed would deliver several benefits, including self-build housing where the Council has both a shortfall in housing land and has delivered few self-build permissions. However, the scale of development is relatively small, and the benefits it would deliver do not clearly outweigh the harm to the Green Belt that would result from it. Consequently, very special circumstances do not exist in this instance.

Other Matters

16. My attention has been drawn to a nearby site on Leasey Dell Drive for which the Council granted planning permission as it was considered to be a limited infill site. The evidence provided in relation to this site is limited, but it appears that the site is enclosed by neighbouring plots on three sides with the river safeguarding the countryside from encroachment. That site therefore differs from the appeal site, which is not enclosed and has open land to two sides.

Conclusion

17. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR